IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3782 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PLATEWEL PROCESSORS & CHEMICALS - Petitioner(s)
Versus
BIPINBHAI MAGANBHAI PATEL - Respondent(s)

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Appearance :
MR JIGAR M PATEL for Petitioner(s) : 1,
MR MTM HAKIM for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 16/07/2007

ORAL JUDGMENT

1. Heard Mr.Jigar M. Patel, learned counsel for the petitioner and Mr.M.T.M. Hakim, learned counsel for the respondent.

2. The petitioner employer, being aggrieved by the award dtd.28/10/1999 passed by the Labour Court, Vadodara in Reference (LCV) No.498 of 1997, is before this Court with a submission that the court below was absolutely unjustified in making the award in sum of Rs.60,000=00 in favour of the workman, despite the workman having admitted that the domestic / departmental inquiry was valid and justified.

3. On 22/10/1996, a chargesheet was issued to the respondent workman leveling the charges that he was indulged in insubordination, was not complying with the directions given to him, was leaving the working place without any authority or permission and was not performing the duty assigned to him.

4. After conducting the inquiry in accordance with law, which is also an admitted position, on 21/1/1997 the petitioner employer removed the workman from the services. Being aggrieved by his removal, the workman came to the Labour Court.

5. During the course of statement, the workman admitted before the Labour Court in his statement recorded at Ex.10, that he was issued the chargesheet, inquiry was just and proper and that there was no illegality in

conduction of the inquiry. Relying upon the said statement, the court observed that the workman had admitted that all the allegations made against him were correct. However, despite holding that everything stands admitted, the Labour Court observed that present even if is not a case of reinstatement etc. it would be a case for award of Rs.60,000=00 as compensation to the workman, because, the workman had suffered some injuries during the course of his employment. It accordingly made such an award.

6. Mr.M.T.M. Hakim, learned counsel for the respondent, on the other hand, submitted that for recovery of compensation, as the workman had suffered some injuries during the course of his employment, the workman had already made some application before the Commissioner under the Workmen Compensation Act and as this plea was raised by him in these proceedings, the court below was justified in making the award.

7. Mr.Jigar Patel, learned counsel for the petitioner submitted that in a case like present the court below was not entitled to make award in favour of the workman.

8. It would be trite to say that once the court finds that the inquiry was absolutely just and legal, it do not run

contrary to law or the established procedure or contrary to the principles of natural justice, then, the court would not interfere into the said findings. The Court can certainly interfere on the question of quantum of punishment, if it records a finding that the award of punishment is shockingly disproportionate to the misconduct.

9. In the present case, the learned court below neither held that the inquiry was invalid nor did it record a finding that the punishment was shockingly disproportionate. If that was so, the Labour Court could not assume any jurisdiction to award monetary benefits or monetary compensation in favour of the workman, simply on the ground that the workman had suffered some injuries during the course of his employment.

10. So far as the award of the compensation against the sufferance of the injuries is concerned, the workman had already gone before the Commissioner, Workmen Compensation. The said Commissioner would have absolute discretion to make the award. In the present case, the Labour Court could not make any award in favour of the workman.

11. The petition is allowed. The impugned award directing

the payment of Rs.60,000=00 to the workman deserves to and is accordingly quashed. No costs.

(R.S. GARG, J.)

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